

AMENDED IN SENATE MAY 6, 2009
AMENDED IN ASSEMBLY MARCH 5, 2009
AMENDED IN ASSEMBLY FEBRUARY 26, 2009
AMENDED IN ASSEMBLY FEBRUARY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 83

Introduced by Assembly Member Feuer

(Principal coauthor: Senator Benoit)

(Coauthors: Assembly Members Anderson, Blakeslee, Brownley, Eng, Evans, Fletcher, Fuentes, Hill, Huffman, Jones, Knight, Lieu, Ma, Monning, Nielsen, John A. Perez, Tran, and Yamada)

(Coauthors: Senators DeSaulnier and Harman)

December 23, 2008

An act to amend Section 1799.102 of the Health and Safety Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 83, as amended, Feuer. Torts: personal liability immunity.

Existing law provides that any person who in good faith, and not for compensation, renders emergency medical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would instead provide that medical, law enforcement, and emergency personnel who in good faith, and not for compensation, render emergency medical *or nonmedical* care at the scene of an

emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would also provide that any person, not including medical, law enforcement, and emergency personnel, who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission, as long as that act or omission does not constitute gross negligence or willful or wanton misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1799.102 of the Health and Safety Code
2 is amended to read:

3 1799.102. (a) No person who in good faith, and not for
4 compensation, renders emergency *medical or nonmedical* care at
5 the scene of an emergency shall be liable for any civil damages
6 resulting from any act or omission. The scene of an emergency
7 shall not include emergency departments and other places where
8 medical care is usually offered. This subdivision applies only to
9 the medical, law enforcement, and emergency personnel specified
10 in this chapter.

11 (b) (1) It is the intent of the Legislature to encourage other
12 individuals to volunteer, without compensation, to assist others in
13 need during an emergency, while ensuring that those volunteers
14 who provide care or assistance act responsibly.

15 (2) Except for those persons specified in subdivision (a), no
16 person who in good faith, and not for compensation, renders
17 emergency medical or nonmedical care or assistance at the scene
18 of an emergency shall be liable for civil damages resulting from
19 any act or omission other than an act or omission constituting gross
20 negligence or willful or wanton misconduct. The scene of an
21 emergency shall not include emergency departments and other
22 places where medical care is usually offered. This subdivision
23 shall not be construed to alter existing protections from liability

1 for licensed medical or other personnel specified in subdivision
2 (a) or any other law.

3 (c) Nothing in this section shall be construed to change any
4 existing legal duties or obligations, *nor does anything in this*
5 *section in any way affect the provisions in Section 1714.5 of the*
6 *Civil Code, as proposed to be amended by Senate Bill 39 of the*
7 *2009–10 Regular Session of the Legislature.* The amendments to
8 this section made by the act adding this subdivision shall apply
9 exclusively to any legal action filed on or after the effective date
10 of that act.

11 SEC. 2. This act is an urgency statute necessary for the
12 immediate preservation of the public peace, health, or safety within
13 the meaning of Article IV of the Constitution and shall go into
14 immediate effect. The facts constituting the necessity are:

15 Because the state has long encouraged Californians to assist
16 others facing danger in an emergency, and the ability to do so
17 without fear of potential suit has been thrown into question by the
18 recent California Supreme Court decision of *Van Horn v. Watson*,
19 (2008) 45 Cal.4th 322, decided on December 18, 2008, this
20 legislation clarifying the intent of the Legislature needs to go into
21 effect immediately so as to avoid any confusion in this important
22 area of the law.